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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BORLINGHAUS, JASON M

ART UNIT PAPER NUMBER

3628

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/909,439

Applicant(s)

SELLERS ET AL.

Examiner

Jason M. Borlinghaus

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Terminal Disclaimer

The terminal disclaimer filed on 8/8/05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of copending application 09/788,132 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Objections

Claims 1 and 9 are objected to because of the following informalities: incorrect preposition. Claims 1 and 9 state that the system/method "has access to electronically stored information relating to the financially troubled borrower and other information necessary to analysis of a decision for approval". Examiner believes that the preposition "to" should be replaced with the preposition "for" for grammatical clarity.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1-3, 5, 6-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dhar (US PG Pub. 2002/0040339 A1) in view of Disclosed Prior Art (see specification, p. 1, line 14 – p. 2, line 6) and Myers (TA Myers & Co. *Real Estate Problem Loans: Workout Strategies and Procedures*. Dow Jones-Irwin. 1990. pp. 5 – 30).

Regarding Claim 1, Dhar discloses a system comprising:

- a network of personal computers (clients) connected into a network administered by a central server computer (web server). ("The web server is in network communication with the Internet. The web server provides the Internet interface for the client's web browser. Specifically, the web server hosts dynamic web pages and provides an interface for clients to interact with the application server and the database server." - see p. 1, para. 17);
- each personal computer in the network including a network interface (web interface) for transmitting servicer (client) inputs to, and receiving outputs from, the server computer. ("Each request from the client proceeds

through the web server, which transmits the required information to the application server." – see p. 1, para. 18. "Assuming that the borrower scores high enough to qualify for one or more of the instant offer loans, the system compiles a list of instant offers for that consumer and displays them on a web page for the consumer's review." – see p. 9, para. 104);

- each personal computer in the network further including display screens for receiving inputs from, and providing outputs to, a servicer (client), including inputs and outputs relating to a proposed loan. ("...a website interface providing a credit application form for a consumer to complete, the website interface providing a field for the consumer to select a category of loan offerings.." – see Claim 1. A display screen would be inherent in collecting input through a website interface. "Assuming that the borrower scores high enough to qualify for one or more of the instant offer loans, the system compiles a list of instant offers for that consumer and displays them on a web page for the consumer's review." – see p. 9, para. 104);

- the central server computer (application server) having a central processing unit (workflow/decision engine) that runs automatic loan decision analysis software and has access to electronically stored information relating to the borrower and other information necessary for analysis of a decision (credit information dataset) for approval, deferral or rejection of the proposed loan (see instant offer, further review, and no

offer – see figure 3). (“When the lending institution receives the application data, the back-end loan workflow engine is activated instantly to perform automatic decision analysis for credit scoring, ratio analysis and other credit checks to meet the selection criteria of each financial institution.” – see p. 4, para. 41. “The workflow engine accepts web-based loan applications, processes the loan applications programmatically, and renders a loan decision within seconds.” – see abstract. “...renders an programmatic loan decision without human intervention...” – see abstract – establishing that the decision is automatic. “In the United States, credit bureaus, such as TRANSUNION, EQUIFAX and the like, maintain credit information relating to each consumer according to his or her social security number. Creditors can access credit information relating to credit applicants by accessing secure databases of these credit bureaus.” – see p. 8, para. 86 – 88);

- the central server computer (application server) being operative, under the control of the workout analysis software (workflow/decision engine), to analyze details of the proposed loan in light of criteria (checklist) established by the lender, the analysis taking into account concessions that must be made in order to secure the proposed loan. (“Offer details maybe renegotiated online by clicking a link to communicate directly with the financial institution.” – see p. 12, para 141 – It is inherent in renegotiation that concessions are made to secure the goal); and

- the central server computer transmitting to the borrower, automatically over the network, automatic approval of the proposed loan if the proposed loan meets the criteria (checklist) established by the lender and, if the proposed loan does not meet the criteria established by the lender, providing further instructions to the borrower (rejection notice). (“The workflow engine uses checklists to evaluate loan applications.” – see abstract. “If the bank rejects the application, a rejection notice is sent to the applicant.” – see p. 9, para. 0100. “...renders an programmatic loan decision without human intervention...” – see abstract – establishing that the decision is automatic).

Dhar does not teach a system comprising:

- inputs from and outputs to, a servicer on behalf of a financially troubled borrower, including inputs and outputs relating to a proposed loan workout to resolve a problem status of an existing loan obligation of the financially troubled borrower;
- the central server computer having a central processing unit that runs automatic workout approval analysis software and has access to electronically stored information related to the financially troubled borrower and other information necessary for analysis of a decision for approval, deferral or rejection of the proposed workout; and
- the central server computer being operative, under the control of the workout analysis software, to analyze details of the proposed workout in

light of criteria established by a mortgage insurer, the analysis taking into account concessions that must be made in order to accomplish the proposed workout, the analysis further taking into account financial conditions related to the borrower and the property influencing the desirability of making concessions necessary to accomplish the proposed workout and the likelihood of success of resolving the problem status of the loan through the proposed workout.

Disclosed Prior Art discloses:

- inputs from and outputs to, a servicer (workout representative) on behalf of a financially troubled borrower, including inputs (borrower completed workout proposal) and outputs (requesting of more borrower information) relating to a proposed loan workout to resolve a problem status of an existing loan obligation of the financially troubled borrower. (see p. 1, lines 20 – 25).

Myers discloses a system comprising:

- the analysis taking into account concessions that must be made in order to accomplish the proposed workout, the analysis further taking into account financial conditions related to the borrower and the property influencing the desirability of making concessions necessary to accomplish the proposed workout and the likelihood of success of resolving the problem status of the loan through the proposed workout. (see p. 19 – 30)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Dhar by incorporating the established loan workout analysis, as disclosed by Disclosed Prior Art and Myers, into the automated loan decision analysis software and workflow/decision engine, as disclosed by Dhar, to provide a faster and automated system through which to run loan workouts, and, as disclosed by Dhar, produce an automatic decision.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Dhar and Disclosed Prior Art by incorporating the ability to make concessions to increase the likelihood of success of securing the proposed workout, as disclosed by Myer, to increase the number of tasks that the automated workout system can manage without human interaction, such as through Dhar's usage of "different combinations of parameters" (see Dhar, p. 9, para. 98).

Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have automated these processes, since it has been held that broadly providing a mechanical or automatic means to replace manual activity that accomplishes the same result involves only routine skill in the art. *In re Verner*, 120 USPQ 192.

Regarding Claim 2, Dhar discloses a system, wherein the personal computers are connected into the network using an Internet connection. ("The web server is in network communication with the Internet. The web server provides the Internet interface for the client's web browser. Specifically, the web server hosts dynamic web pages and

provides an interface for clients to interact with the application server and the database server." - see p. 1, para. 0017).

Regarding Claim 3, Dhar discloses a system, wherein the network interface is web-based. ("The web server is in network communication with the Internet. The web server provides the Internet interface for the client's web browser. Specifically, the web server hosts dynamic web pages and provides an interface for clients to interact with the application server and the database server." - see p. 1, para. 0017).

Regarding Claim 5, Dhar discloses a system, wherein if the user inputs fail to satisfy predetermined guidelines (checklists), the user receives a message informing the user that the system cannot be used. ("Rejection notice sent to applicant" – see figure 7, 114, 116, 118 and 120).

Regarding Claims 6 – 8 and 10, further method claims would have been obvious from system claims rejected above, Claims 1 – 3 and 5, respectively, and are therefore rejected using the same art and rationale.

Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dhar, Disclosed Prior Art and Myers, as in Claim 1 and 6 above, in further view of Fletcher (US Patent 6,112,190).

Regarding Claim 4, neither Dhar, Disclosed Prior Art nor Myer teach a system, wherein:

- one or more of the display screens presents to a user a menu of predefined workout types and wherein the system allows the user to

choose a workout type by making an appropriate selection from the menu of predefined workout types.

Fletcher discloses a system wherein:

- one or more of the display screens presents to a menu (drop-down menu) of predefined analysis types and wherein the system allows the user to choose an analysis type by making an appropriate selection from the menu (drop-down menu) of predefined analysis types. (see figure 14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the automated loss mitigation loan workout system, as disclosed by Dhar, Disclosed Prior Art and Myer, in combination, to provide a menu of predefined analysis types for selection among, as disclosed by Fletcher, to utilize a common and standard software feature to create an easier to utilize graphic user interface.

Regarding Claim 9, further method claim would have been obvious from system claim rejected above, Claim 4, and is therefore rejected using the same art and rationale.

Response to Arguments

Applicant's arguments with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Art Unit: 3628

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Borlinghaus whose telephone number is (571) 272-6924. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (571) 272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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